

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

Paul Timothy Davenport,)	
)	Civil Action No. 6:12-cv-02064-JMC-JDA
Plaintiff,)	
)	
v.)	ORDER
)	
)	
Michelin North America, Inc.,)	
)	
Defendant.)	
_____)	

This matter is before the court for review of the Magistrate Judge's Report and Recommendation ("Report"), [Dkt. No. 23], filed on October 25, 2012, recommending that Defendant's Motion to Dismiss [Dkt. No. 7] in the above-captioned case be denied and Plaintiff's Motion for Leave to File an Amended Complaint [Dkt. No. 21] be denied. Plaintiff brought this action seeking relief under the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12101 *et seq.* The Report sets forth in detail the relevant facts and legal standards on this matter which the court incorporates herein without a recitation.

The Magistrate Judge's Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

No objections have been filed to the Report. In the absence of objections to the Magistrate Judge's Report, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (*quoting* Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a thorough review of the Report and Recommendation and the record in this case, the court **ACCEPTS** the Magistrate Judge's Report and Recommendation. [Dkt. No. 23]. It is therefore **ORDERED** that Defendant's Motion to Dismiss [Dkt. No. 7] in the above-captioned case is **DENIED** and Plaintiff's Motion for Leave to File an Amended Complaint [Dkt. No. 21]¹ is **DENIED**.

IT IS SO ORDERED.



United States District Judge

Greenville, South Carolina
December 13, 2012

¹The court notes that the Magistrate Judge's Report and Recommendation, was filed on October 25, 2012. Therefore, on October 31, 2012, Plaintiff filed a Consent Motion for Leave to Amend Complaint [Dkt. No. 24], which allowed Plaintiff to amend her Complaint [Dkt. No. 1] to correct the statutes listed in certain paragraphs of the Complaint. The Amended Complaint [Dkt. No. 30], filed on November 1, 2012, does not affect the court's ruling herein.